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No. 872

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

NORTH CENTRAL AIRLINES, INC., *Petitioner,*

v.

CIVIL AERONAUTICS BOARD, *Respondent,*

LAKE CENTRAL AIRLINES, INC., *Intervenor,*

LAKE CENTRAL AIRLINES EMPLOYEE STOCKHOLDER GROUP, *Intervenor.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF FOR LAKE CENTRAL AIRLINES EMPLOYEE STOCKHOLDER GROUP IN OPPOSITION

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May, 1959

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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OPINIONS BELOW

The opinions and orders of the Civil Aeronautics Board are unreported. They consist of the Board's original opinion and order of July 9, 1957 (No. E-11548), denying petitioner's application to acquire Lake Central Airlines (R. 480-519), and its order of November 1, 1957 (No. E-11932) denying petitioner's request for reconsideration (R. 558-560).

The opinion of the Court of Appeals for the District of Columbia Circuit is unreported and is set forth in Appendix B of the petition.

JURISDICTION

The jurisdictional requisites are adequately set forth in the petition.

QUESTIONS PRESENTED

In the opinion of the Lake Central Airlines Employee Stockholder Group, the effort of the petition to raise constitutional and statutory questions has no basis in the action of the Civil Aeronautics Board, in North Central's petition to the Court of Appeals to review that action, or in the decision and opinion of that Court. The only issues that have ever been properly involved in this litigation are those posed by North Central's petition for review in the Court of Appeals, the pertinent portion of which is attached to the Brief for Lake Central Airlines, Inc. in Opposition as Appendix A thereto, and by North Central's stipulation of the issues before that Court (R. 1-2), only one of which is presented in the petition for certiorari. The only questions therefore presented by the petition are:

1. Was the Board's disapproval of the proposed acquisition inconsistent with its action in other merger cases?

2. Is further judicial inquiry permissible or required into the questions, which were raised *sua sponte* by the Court of Appeals, which were not raised by petitioner either before the Board or the Court and which, after exploration, the Court of Appeals dismissed?

STATUTES AND REGULATIONS INVOLVED

The relevant portions of the Civil Aeronautics Act involved are set forth in the appendix to respondent's brief in opposition. In the opinion of the Lake Central Airlines Employee Stockholder Group, no other statutory or regulatory provisions are involved.

STATEMENT

The facts are fully set forth in the briefs of respondent and Lake Central Airlines in opposition and, in the interest of conserving the time of the Court, will not be repeated here. Respondent's brief sets forth the identity of the Lake Central Airlines Employee Stockholder Group and its interest in this litigation. The Group participated in the case before the Civil Aeronautics Board and intervened, without opposition from North Central, in the proceeding before the Court of Appeals.

ARGUMENT

The Lake Central Airlines Employee Stockholder Group is in complete agreement with, and hereby adopts as its own, the points and argument contained in the briefs of respondent and Lake Central Airlines in opposition.

CONCLUSION

For the reasons set forth in the briefs of respondent and Lake Central Airlines in opposition, it is respectfully submitted that this petition for a writ of certiorari should be denied.

Respectfully submitted,

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